



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**JOHN BEN SHEPPERD  
ATTORNEY GENERAL**

July 31, 1953

Hon. Howard Carney  
Secretary of State  
Capitol Station  
Austin, Texas

Letter Opinion No. MS-76

Re: Authority to expend funds  
from the Securities Act  
Fund for rental of equip-  
ment in the Secretary of  
State's Office.

Dear Mr. Carney:

You have requested the opinion of this office as to the legality of the payment of the sum of \$1620.00 from Item 42 of the Securities Act Fund appropriated to the Secretary of State for the Securities Division in Chapter 81, Article III, Acts 53rd Legislature, 1953, p. 291.

From the submitted facts it appears that on July 16, 1953 the Secretary of State entered into a contract with International Business Machines Corporation for the rental on a monthly basis of certain machines for use in the office of the Secretary of State. The total rental consideration for the use of these machines during the biennium commencing September 1, 1953 and ending August 31, 1955 amounts to \$15,780.00. However, Item 35 of the appropriation to the Secretary of State in the General Appropriation Bill above referred to restricts the payment for rent on tabulating machines in an amount not to exceed \$7080.00 for each year of the biennium, this amount being payable out of the General Revenue Fund appropriated in Item 35 for payment of other expenses of the office of the Secretary of State, leaving a balance of \$1620.00 in excess of the amount so appropriated.

Under the provisions of Section 36, Article 600a, V.C.S., all monies derived from fees, assessments or charges made under the Securities Act are to be paid by the Secretary of State into the State Treasury where they are placed in a separate fund available for use by the Secretary of State in the administration of the provisions of the Securities Act.

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In Item 42 of the appropriation to the Securities Division of the Secretary of State in the General Appropriation Act there is appropriated out of the Securities Act Fund created by Section 36, Article 600a, V.C.S., the sum of \$9500.00, for the first year of the biennium ending August 31, 1954, and \$8300.00 for the second year of the biennium ending August 31, 1955, for the payment of other expenses as follows:

"Books, printing, stationery, freight, postage, telephone, telegraph, contingent expenses, furniture, files, typewriters, equipment, and travel expenses. . . ."

It appears from your letter that some of the tabulating machines above referred to are used in the necessary operation of the Securities Division and as such constitute equipment within the meaning of that part of Section 36, Article 600a, V.C.S., which provides for the payment of "all other expenses necessary and proper for the administration of this Act, including equipment and maintenance of any supplies for such offices or quarters as the Secretary of State may occupy. . . ."

The fact that the rental for tabulating machines for use in the office of the Secretary of State is limited to the sum of \$7080.00 for each year of the biennium, payable out of the General Revenue Fund, does not limit the authority of the Secretary of State to purchase or rent additional equipment such as tabulating machines, which may be necessary for the proper conduct and operation of the Securities Division. You are therefore advised that you may legally pay the rental on these machines out of the Securities Act Fund in proportion to the use of the machines by the Securities Division. If the sum of \$1620.00 is a reasonable apportionment to the Securities Division of the total rental on the machines, this amount may be paid from the Securities Act Fund.

Yours very truly,

JOHN BEN SHEPPERD  
Attorney General

By  
C. K. Richards  
Assistant

CKR:wb:am